



## **Kindergarten Admission & School Attendance Requirements**

### **At what ages are Florida children required to attend school?**

Children six to 16 years of age must regularly attend school.<sup>1,2</sup> Upon attaining 16 years of age, a student is not subject to compulsory school attendance if he or she files with the district school board a formal declaration of intent to terminate school enrollment, which must be signed by the student's parent.<sup>3</sup> A student terminating school enrollment must complete an exit interview and survey prescribed by the Department of Education explaining the reasons for terminating school enrollment.<sup>4</sup>

### **What are the age requirements for kindergarten admission?**

For admission to kindergarten in a public school, a child must be 5 years of age on or before September 1 of the school year.<sup>5</sup> If a child enters public school at age 6 without previously completing kindergarten, he or she must be placed in kindergarten and progress according to the school district's student progression plan.<sup>6</sup>

### **Are there exceptions to the age requirements for compulsory school attendance?**

Yes. Under a pilot project established by the Legislature, the Manatee County District School Board was required to raise the compulsory age of school attendance from 16 to 18 years of age.<sup>7</sup>

<sup>1</sup> Sections 1002.20(2)(a) and 1003.21(1)(a)1., F.S. (a child who is 6 years of age, or who will be 6 years old by February 1 of the school year, or older is subject to compulsory school attendance.)

<sup>2</sup> Although not required to attend public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs. Similarly, children younger than 3 years of age with disabilities may be eligible for special programs and services. Section 1003.21(1)(e), F.S.

<sup>3</sup> Section 1003.21(1)(c), F.S. A student who is 18 years of age is not required to obtain parental consent when terminating school enrollment. *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Section 1003.21(1)(a)2. and (4), F.S. A student who transfers from an out-of-state public or nonpublic school and who does not meet Florida's age requirements for admission to public schools may be admitted if, among other things, the student meets the age requirements of the state from which he or she moved. Rule 6A-1.0985, F.A.C.; s. 1003.21(2)(a), F.S.

<sup>6</sup> Section 1003.21(1)(b), F.S.; see also Florida Department of Education, *Frequently Asked Questions: Attendance and Enrollment*, <http://www.fldoe.org/fag/default.asp?Dept=107> (last visited May 10, 2010).

<sup>7</sup> Section 1003.61(2), F.S. The Manatee School District pilot attendance project was enacted by the Legislature in 1999. Section 68, ch. 99-398, L.O.F. The 2010 Legislature repealed the requirement for the Manatee County District School Board to submit an annual report on the effect of raising the compulsory age of attendance on school attendance and on the school district's dropout rate to the Governor, Legislature and the Commissioner of Education. Section 174, ch. 2010-102, L.O.F.

Also, a school district may issue a student a certificate of exemption from compulsory attendance. An exemption is valid until the end of the school year in which it is issued.<sup>8</sup>

### ***Are students required to attend a public school?***

No. In addition to attendance in public school, compulsory school attendance may be achieved through regular attendance in a private school; a parochial, religious, or denominational school; a home education program; or a private tutoring program.<sup>9</sup>

### ***What responsibilities and penalties are associated with compulsory school attendance requirements?***

**School Districts.** State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.<sup>10</sup> The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.<sup>11</sup> If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused. In such cases, the physician's excuse justifies absences beyond the maximum number of days permitted under the district school board's attendance policy.<sup>12</sup>

State law and rules of the State Board of Education also authorize a public school to grant permission to students, in accordance with the school district's rules, to be absent from school for religious instruction, religious holidays, or because religious tenets forbid secular activity during the school day.<sup>13</sup>

School districts must implement the following steps to enforce regular attendance:

**Contact:** Each time a student has an unexcused absence or absence for which the reason is unknown, the school principal or his or her designee must contact the student's parent to determine the reason for the absence. If the reason for the absence is determined to fall within the district's policy for excused absences, the school must allow the student to make up assigned work. The student may not be penalized unless such work is not made up within a reasonable time.<sup>14</sup>

**Refer:** If a student exhibits a "pattern of nonattendance,"<sup>15</sup> his or her teacher must report the behavior to the school principal. Unless there is clear evidence that the absences are not a pattern

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<sup>8</sup> Section 1003.21(3), F.S.

<sup>9</sup> Sections 1002.20(2)(b) and 1003.01(13), F.S.

<sup>10</sup> Section 1003.24, F.S. (flush-left provisions at end of section).

<sup>11</sup> Section 1003.26, F.S.

<sup>12</sup> Section 1003.24(4), F.S.

<sup>13</sup> Sections 1002.20(2)(c) and 1003.21(2)(b), F.S.; rule 6A-1.09514(1) and (2), F.A.C.

<sup>14</sup> Section 1003.26(1)(a), F.S.

<sup>15</sup> If a student has at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within 90 calendar days, the student's primary teacher must report to the school principal that the student may be exhibiting a "pattern of nonattendance." Section 1003.26(1)(b), F.S.

of nonattendance, the principal must refer the case to the school's child study team to determine whether early patterns of truancy are developing.<sup>16</sup> If a child study team finds a pattern of truancy developing, the principal must notify the district superintendent and the district contact for home education programs.<sup>17</sup>

The child study team must meet with the student's parent to identify potential remedies and, if that meeting does not resolve the problem, the team must:

- ❖ Make frequent attempts at communication between the teacher and the family.
- ❖ Evaluate the student for alternative education programs.
- ❖ Implement attendance contracts.<sup>18</sup>

The child study team may also implement other interventions, including referral to other agencies for family services or recommendations for filing a truancy petition,<sup>19</sup> and must report the case to the district superintendent only after all reasonable intervention efforts are exhausted.<sup>20</sup>

**Enforce:** A parent who believes that the remedial strategies proposed by a child study team are unnecessary or inappropriate may appeal to the district school board. If the board determines the strategies are appropriate and the parent still refuses to participate, the superintendent may seek criminal prosecution of the parent for noncompliance with compulsory school attendance.<sup>21</sup> If the pattern of nonattendance continues due to the student's failure to comply with attempts to enforce school attendance, the parent or district school superintendent must refer the case to the case staffing committee and may file a truancy petition.<sup>22</sup>

**Parents.** The parent of a minor student is responsible for ensuring the student's regular school attendance and for participating in the efforts of a child study team. A parent who knowingly refuses or fails to do either of the aforementioned requirements may be criminally prosecuted for a second degree misdemeanor, which is punishable by imprisonment for up to 60 days.<sup>23</sup> In addition to imprisonment, the court may require the parent to participate in an approved parent training class, attend school with the student unless this would cause undue hardship, perform community service hours at the school, or participate in counseling or other services.<sup>24</sup> A parent may not, however, be held responsible for the student's nonattendance when an absence was:

- ❖ Authorized by the head of the school;
- ❖ Without the parent's knowledge or consent;
- ❖ Due to the parent's financial inability to provide necessary clothing for the student; or

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<sup>16</sup> Section 1003.26(1)(b), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Section 1003.26(1)(c), F.S.

<sup>19</sup> "Truancy petition" means a petition filed by the superintendent of schools alleging that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, or has more than 15 unexcused absences in a 90-calendar-day period. A truancy petition is filed and processed under s. 984.151, F.S. Section 984.03(55), F.S.

<sup>20</sup> Section 1003.26(1), F.S.

<sup>21</sup> Section 1003.26(1)(e), F.S.

<sup>22</sup> Section 1003.26(1)(g), F.S.

<sup>23</sup> Sections 1003.24, 1003.26(1)(e) and (f), and 1003.27(2) and (7)(a), F.S.

<sup>24</sup> Section 1003.27(7)(a)3., F.S.

❖ Due to the student's sickness, injury, or other insurmountable condition.<sup>25</sup>

**Students.** If a student is found by the court to be a habitual truant,<sup>26</sup> the court must order him or her to make up all school work missed and may order him or her to pay a civil penalty of up to \$2 for each day of school missed; perform up to 25 community service hours at the school; or participate in counseling or other services, as appropriate.<sup>27</sup> For a second or subsequent finding of habitual truancy, the court must order the student to make up all school work missed and may order the him or her to pay a civil penalty of up to \$5 for each day of school missed; perform up to 50 community service hours at the school; or participate in counseling or other services, as appropriate.<sup>28</sup>

***What procedures apply to a student identified as exhibiting a pattern of nonattendance who is subsequently enrolled in a home education program?***

When the parent of a student who has been identified as exhibiting a pattern of nonattendance subsequently enrolls the student in a home education program,<sup>29</sup> the superintendent must provide the parent with a copy of the home education law and accountability requirements and refer the parent to a home education review committee. This committee is composed of the district contact for home education programs and at least two home educators selected by the parent from a list of home educators who have conducted a home education program for at least three years and have indicated a willingness to serve on the committee.<sup>30</sup>

The committee is required to review the student's portfolio every 30 days during the district's regular school terms until the committee is satisfied that the program is in compliance with s. 1002.41, F.S., the statute which governs home education programs.<sup>31</sup>

If the parent fails to provide a portfolio to the committee, the committee must notify the superintendent. The superintendent must terminate the home education program and require the parent to enroll the student in another attendance option such as a public or private school or a private tutoring program within three days. Upon termination of a home education program, the parent may not reenroll the student in a home education program for 180 calendar days.<sup>32</sup>

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<sup>25</sup> Section 1003.24, F.S.

<sup>26</sup> "Habitual truant" is a legal status determined by the court upon the filing of a petition by the school superintendent. In order for the court to declare a student habitually truant, the court must find that the student is subject to compulsory school attendance; the student has had 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent; and a child study team has conducted intervention activities and attempted unsuccessfully to remediate the student's truant behavior. Section 1003.01(8), F.S.

<sup>27</sup> Section 1003.27(7)(d)1., F.S.

<sup>28</sup> Section 1003.27(7)(d)2., F.S.

<sup>29</sup> A "home education program" means the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements. Section 1002.01(1), F.S. See generally s. 1002.41, F.S. and Home Education Fact Sheet.

<sup>30</sup> Section 1003.26(1)(f)1., F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 1003.26(1)(f)2., F.S.

Failure of a parent to enroll the student in an attendance option after termination of the home education program constitutes noncompliance with compulsory attendance requirements and may result in criminal prosecution for a second degree misdemeanor.<sup>33</sup>

### ***Are school attendance requirements linked to other statutory requirements?***

Yes, school attendance requirements are linked to driving privileges for minor<sup>34</sup> students and the requirements under the Learnfare Program.

***Driving Privileges.*** If a student under 18 years of age drops out of public or nonpublic school and does not comply with the compulsory school attendance requirements, the Department of Highway Safety and Motor Vehicles (DHSMV) is not permitted to issue the student a driver's license or learner's permit, except if the student:

- ❖ Is enrolled in a study course for the General Educational Development test or other school district-approved educational activities and satisfies attendance requirements;
- ❖ Receives a certificate of exemption; or
- ❖ Receives a hardship waiver due to a personal or family hardship requiring the student to have a driver's license for the student's or family's employment or medical care.<sup>35</sup>

The district school superintendent must report a minor student's identifying information<sup>36</sup> to DHSMV when the student accumulates 15 unexcused absences within a 90-day calendar period.<sup>37</sup> If the student has already been issued a driver's license or learner's permit, and one of the exceptions does not apply, DHSMV must suspend the student's license or permit.<sup>38</sup> The DHSMV is required to provide a quarterly report to each school district identifying each student whose driving privileges have been suspended based upon student attendance requirements.<sup>39</sup>

The DHSMV must notify each minor student and the student's parent or guardian of its intent to suspend the student's driving privileges.<sup>40</sup> The student or the parent or guardian has 15 calendar days after the date of receipt of the notice to provide proof of compliance or request a hardship waiver.<sup>41</sup> The district school board must verify that the student is in compliance and upon receipt of the written verification, DHSMV must reinstate the student's driving privilege.<sup>42</sup>

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<sup>33</sup> Sections 1003.26(1)(f)2. and 1003.27(2) and (7)(a), F.S.

<sup>34</sup> "Minor" includes any person who has not attained the age of 18 years. Section 1.01(13), F.S.

<sup>35</sup> Section 322.091(1) and (3)(b), F.S. The Florida Department of Education has issued a technical assistance paper to assist school personnel who implement this provision and district technical staff who provide information to the Department of Highway Safety and Motor Vehicles. Florida Department of Education, Division of K-12 Public Schools, Bureau of Exceptional Education and Student Services, Technical Assistance Paper: *Implementation of Attendance Requirements for Minors to Maintain Their Driving Privilege* (Jan. 24, 2007), available at <http://www.fldoe.org/ese/pdf/y2007-6.pdf>.

<sup>36</sup> "Identifying information" includes the legal name of the student, date of birth, gender, and, if available, social security numbers. Section 322.091(2), F.S.

<sup>37</sup> Section 1003.27(2)(b), F.S.

<sup>38</sup> *Id.*

<sup>39</sup> Section 322.091(5), F.S.

<sup>40</sup> Section 322.091(2)(a), F.S.

<sup>41</sup> Section 322.091(2)(b), F.S.

<sup>42</sup> Section 322.091(4), F.S.

***Learnfare Program.*** The Learnfare Program requires the Department of Children and Family Services to reduce the temporary cash assistance<sup>43</sup> provided under the federal Temporary Assistance for Needy Families Program for a participant's eligible dependent child or an eligible teenage participant who has not been exempted from education participation requirements, if the dependent child or teenage participant has been identified either as a habitual truant or a dropout.<sup>44</sup>

***Where can I get additional information?***

***Florida Department of Education***

Bureau of Exceptional Education and Student Services  
(850) 245-0475  
<http://www.firn.edu/doe/commhome/index.html>

***Florida Department of Education***

Bureau of Family & Community Outreach  
(850) 245-0847  
<http://www.fldoe.org/family/>

***Florida House of Representatives***

Education Committee  
(850) 488-7451  
<http://www.myfloridahouse.gov>

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<sup>43</sup> The Temporary Cash Assistance (TCA) program provides cash assistance to families with children under age 18 (or under age 19 if they are full-time students in a secondary school) that meet the program's technical, income, and asset requirements. The TCA program helps families become self-supporting so that children may remain in their own homes or the homes of relatives. Florida Department of Children and Families, *Temporary Cash Assistance Fact Sheet*, at 2 (March 2008), available at <http://www.dcf.state.fl.us/programs/access/docs/tcafactsheet.pdf>.

<sup>44</sup> Section 414.1251(1), F.S.; see also Learnfare Program Fact Sheet.